FINAL COUNCIL ACTION	☐2nd ☐1st & 2nd ☐3rd	Readings	Consent DV Vote PRC Vote	CEMIFIED			ULI ZAMO	ALANIA UIT COUNTE FILEDOM				MUNICIPAL CLERK	MAYOR'S ACTION		0CT 1,0 2000			,	7
First Reading			Committee	Date	Chair	Action: Fav, Adv, Hold (see rev. side) Other:	Members		Refer To	Committee	Date	Chair	Action: Fav, Adv, Hold (see rev. side)	Other:	Members			Refer To	
	Date	Chair Referred to	Committee / xss	9-26-00	Plan Chaipulle	Action: Fav, Adv, Hold (see rev. side) Other:	S 4 Members	1. Semine Starter	Refer To	Committee	Date	Chair	Action: Fav, Adv, Hold (see rev. side)	Other:	Members				
00-0-1567		(Do Not Write Above This Line)	AN ORDINANCE	BY COUNCILMEMBERS JIM	MADDOA and Joles Emmons	AN ORDINANCE TO AMEND ARTICLE III OF CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF ATIANTA GEORGIA	EY ADDING DIVISION 3, SECTION 30-200 THROUGH 30-218 TO PROVIDE FOR A REDUCTION IN	THE RATE OF TAXATION APPLIED BY CHAPTER 30, SECTIONS 30-51 THOUGH 30-85 FOR THOSE	CESTAURANTS PROHIBITING CESOTING IN THEIR DINING AREA; AND FOR OTHER PURPOSES. 10/1/00 - Conton Mornis' Mation to found	" Thiled my note call trains.		CONSENT REFER ADOPTED BY CONSENT REFERENCE OF 2000		Date Referred $9/18/0$	Referred To: 1, fy Utilities	Date Referred	Referred To:	Date Referred	Referred To:





00-0 -1567

BY COUNCILMEMBERS JIM MADDOX and JULIA EMMONS

AN ORDINANCE TO AMEND ARTICLE III OF CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA BY ADDING DIVISION 3, SECTION 30-200 THROUGH 30-218 TO PROVIDE FOR A REDUCTION IN THE RATE OF TAXATION APPLIED BY CHAPTER 30, SECTIONS 30-51 THROUGH 30-85 FOR THOSE RESTAURANTS PROHIBITING SMOKING IN THEIR DINING AREA; AND FOR OTHER PURPOSES.

WHEREAS there is large body of scientific research which documents the deleterious effects on the health of non-smokers who are in close proximity to smoke from cigarettes and other tobacco products; and

WHEREAS the Atlanta City Council wishes to encourage the availability of smoke free restaurants within the City of Atlanta; and

WHEREAS the Council believes that measures which increase the number of smoke free restaurants will offer health benefits to its citizens and visitors and not cause any appreciable amount of negative economic consequences to the City or its businesses; and

WHEREAS, the Council believes that restaurants which make smoke free dining available to it patrons by voluntarily prohibiting smoking will suffer no economic detriment and that this will demonstrate the economic viability of smoke free restaurants; and

WHEREAS, in order to encourage restaurants to provide smoke free dining opportunities in those areas of the city where such opportunities are not presently available or are underserved by smoke free restaurants the Council wishes to provide an exemption from a portion of the business and occupation tax for those restaurant which voluntarily provide a smoke free environment to its patrons; and

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS AS FOLLOWS:

SECTION 1: That Chapter 30, Article III, of the Code of Ordinances of

the City of Atlanta, Georgia, as amended (the "Atlanta City Code") is hereby

ended by adding Chapter 30, Article III, Division 3, Sections 30-200 through

30-218, to read as follows:

Division 3. Exemption available for restaurants where smoking is entirely prohibited on a voluntary basis

Sec. 30-200. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in Section 30-51, except where the context clearly indicates a different meaning or where defined herein:

Licensed premises: for the purposes of this Article, licensed premises shall be defined as the entire enclosed or unenclosed physical premises where a restaurant operates under its business license including service areas or offices which are not accessible to customers.

Restaurant: for the purposes of this Article, a restaurant shall be defined in the same manner as defined in Chapter 10 of the Code.

Sec. 30-201. Purpose and scope of exemption.

It has been found by the Atlanta City Council that the availability of smoke free restaurants within the City of Atlanta should be encouraged. There is large body of scientific research which documents the deleterious effects on the health of non-smokers who are in close proximity to smoke from cigarettes and other tobacco products. The Council believes that measures which increase the number of smoke free restaurants will offer health benefits to its citizens and visitors and not cause any appreciable amount of negative economic consequences to the City or its businesses. The Council wishes to encourage restaurants to make smoke free dining available to citizens and is therefore offering an exemption from a portion of the business and occupation tax to those restaurants which meet the criteria of this Division for the purpose of demonstrating the economic viability of smoke free restaurants.

The State of Georgia recognizes that municipalities desire to encourage or support such goals and in Section 48-13-10(f) of the Official Code of Georgia provides specific authority allowing local governments to provide an exemption from business or occupation taxes for the purpose of developing, attracting, encouraging or maintaining selected types of businesses. In order to encourage restaurants to provide smoke free dining opportunities in those areas of the city where such opportunities are not presently available or are underserved by smoke free restaurants, an exemption from the city business or occupation tax is herein provided as permitted by state law.

The following exemption from the business tax levied in this Article III, spision 1 is for the purpose of promoting development of smoke free restaurants and is not for regulatory purposes. The exemption only applies to those businesses and occupations that are taxed pursuant to Section 30-51 through 30-85 by the local government pursuant to the pertinent general and/or local law and ordinance and no other effect on any other code section is intended.

Sec. 30-202. Effect of division upon outstanding occupation taxes.

The outstanding liabilities under prior application of any ordinances shall continue and remain in force until such tax, fee, or assessment, including any penalties and interest, shall be fully paid.

Sec. 30-203. Administration.

The chief financial officer and the director of the Bureau of Buildings shall administer and enforce this division for the purpose of determining the applicability of the exemption provided herein and for the enforcement of penalties herein imposed.

Sec. 30-204. Exemption provided.

In accordance with state law, an exemption is hereby provided from the business tax levied by Section 30-51 through 30-85 for those restaurants eligible under the terms set forth in this division. Said exemption is to apply only to specific restaurant locations qualified for an exemption under this division and no exemption is provided for any other business location operated by the same person, unless said location separately qualifies under the terms of this division.

Sec. 30-205. Criteria for Eligibility.

- (a) In order to be designated a smoke free restaurant, a restaurant must meet all of the following criteria:
 - 1. A restaurant must choose to impose a ban on smoking on the licensed premises.
 - 2. Signs shall be posted in a conspicuous place such that all customers and employees are put on notice of the restaurant's choice to ban smoking.
 - (i) The minimum signage shall be 4" x 4" sign of the international symbol for no smoking (a pictoral representation of a burning cigarette enclosed in a red circle with a red bar across it).



- In addition, all such restaurants shall have a sign not less than (ii) 8½" x 11" which is conspicuously posted such that all customers and employees are put on notice. The sign shall contain the following language "THIS RESTAURANT HAS VOLUNTARILY AGREED TO BAN SMOKING UNDER SECTION 30-200 et seg OF THE CODE OF THE CITY OF ATLANTA. SMOKING BY ANY PERSON IS PROHIBITED. ALL PERSONS ARE NOTIFIED THAT SMOKING IN THIS RESTAURANT IS A VIOLATION OF THE CITY OF ATLANTA NON-SMOKING DESIGNATION ORDINANCE AND THE FULTON COUNTY CLEAN INDOOR AIR ORDINANCE. PERSONS WHO BELIEVE THAT THIS FACILITY IS IN VIOLATION MAY REPORT THE VIOLATION TO THE CITY OF ATLANTA BUREAU OF BUILDINGS." By administrative rule, the Bureau of Buildings may at its discretion add other language to promote enforcement efforts and may specify the size and arrangement of the text on this or any other required sign.
- (iii) A 4" x 4" sign of the international symbol for no smoking or a sign at least 1½" x 6" which shall state "NO SMOKING" shall be posted in each restroom.
- (iv) Other signs concerning the restaurants's no smoking policy may be posted at the discretion of management.

Sec. 30-206. Application and approval required.

- (a) Any restaurant desiring an exemption under this division must make application to the business tax division on a form provided by the Department of Finance. The exemption must be approved in writing before any restaurant seeking an exemption under this division may apply the exemption to its present year tax liability. Any person who operates a qualifying restaurant in full compliance with this article and who properly registers and is approved and certified as qualifying for exemption from business taxes for that restaurant for the current tax year prior to the due date for business taxes may apply the exemption to their tax liability for the current tax year. All persons operating any restaurant location that has applied for but has not received approval for exemption prior to the due date for business taxes for the current tax year may not apply an exemption to their tax liability. The exemption shall be prorated from the date of application in the first year of qualification.
- (b) Any person desiring to qualify a particular restaurant location, which is licensed to sell alcoholic beverages, for an exemption pursuant to this division must receive written confirmation from the Atlanta Police Department that the

to a tion is designated as a restaurant as defined herein and must make application and receive approval from the business tax division.

- (c) Any person desiring to qualify a particular restaurant location for the exemption made available by this division and who is required by any other applicable section of the City Code to file any business tax return, must timely file such other business tax returns in order to qualify for the exemption available pursuant to this division. Failure to file a business tax return when required to do so by any other applicable section of the City Code shall be grounds for denial of the exemption provided in this division.
- (d) Any person, who applies for an exemption for a location which fails to qualify under the term of this division, shall be responsible for the full payment of all business taxes for that location in addition to any penalties and interest as provided elsewhere in this article.
- (e) Each person who receives an exemption shall be provided with a list of the specific signage requirements which may be set forth by the administrative rules of the Bureau of Buildings. Upon making any change to the signage requirements, the Bureau of Buildings shall notify the holders of exemptions of the required signage.

Sec. 30-207. Exemption rate structure.

(a) Any restaurant certified as qualifying as smoke free restaurant classification shall be exempt from twenty percent of the business tax which would otherwise be due. In the year when the first application for the exemption is made, the exemption shall be prorated from the date of application.

Sec. 30-208. Duration of registration for exemption.

Once qualification for exemption pursuant to this division is approved, such qualification shall automatically expire unless renewed as a part of the current year registration.

Sec. 30-209. Types of restaurants ineligible.

- (a) the following types of businesses are not eligible for the smoke free restaurant exemption:
 - (1) adult businesses as defined in City Code Section 16-29.001(3) or as amended;
 - (2) any establishment which has a license for the sale of distilled spirits and which is not qualified as a restaurant by the end of its first twelve

months of operation.

ec. 30-210. Notice of non-compliance sent to owner for failure to enforce designated non-smoking areas.

Because the granting of an exemption under this section is a privilege which is subject to abuse solely for economic gain, the city recognizes that there must be a mechanism to monitor compliance by those restaurants that have chosen to apply for tax exemptions under the terms of this division. The city believes that those who receive the exemption have a duty to request compliance from its patrons, and for the failure of restaurants granted exemption to comply with the non smoking designations required by this division will result in a notice of non-compliance letter being issued to the owner by the Bureau of Buildings and being kept on file by the Bureau of Treasury, Licensing and Employee Benefits. The notice of violation is an administrative notice and is not an ordinance violation. The receipt of a notice of non-compliance letter shall not require appearance in municipal court.

Sec. 30-211. Loss of eligibility.

Any restaurant which has qualified under this division for an exemption from the business tax shall lose its eligibility upon the happening of any of the following events:

- (a) the loss of restaurant status as determined by its license status;
- (b) allowing smoking in violation of this ordinance as evidenced by three notice of non-compliance letters in any twelve month period for failure to enforce the smoking ban on its premises;
- (c) a conviction for any violation related to the use of the provisions of this division for the purpose of evading business taxes which would otherwise be due and payable at the location for which the exemption was issued;
- (d) a conviction for any violation related to the non-payment of business taxes which would otherwise be due and payable at the location for which the exemption was issued.

Sec. 30-212. Duration of existence of restaurant smoking ban exemptions.

(a) The business tax exemption for smoke free restaurants shall expire at 11:59 pm on December 31, 2003. After this date no restaurant shall be entitled to claim any business tax exemption because of a smoke free designation.

30-213. Lapse in registration for exemption.

(a) A person receiving an exemption for a location pursuant to this division in a previous year and who has allowed the registration for exemption for said location to lapse may apply for reinstatement of the exemption for that location. Upon approval of the reinstatement, the amount of the exemption shall be prorated to the date of re-application

Sec. 30-214. Separate restaurants locations.

Where a restaurant is operated at more than one location, each location must apply for exemption. The person operating such restaurants shall pay business taxes in accordance with the prevailing taxing method and tax rate at each location.

Sec. 30 -215. Dominant line of business.

- (a) No exemption under this division is available except for the restaurant portion of any business which operates more than one type of business registration at any business location in the city. Where other type of sales and services are available, the business tax division shall identify the dominant line of business conducted at each location based on percentage of sales, and the exemption provided in this division shall apply only to the sales in the restaurant portion of any location.
- (b) Where a location includes more than one line or type of operation, such business shall pay its business tax in accordance with the prevailing taxing method and tax rate for the dominant line at each location.

Sec. 30-216. Record of exemption to be maintained.

All locations shall maintain documentation relating to any grant of exemption at the address for which the exemption was issued. Said documentation shall be exhibited to any authorized enforcement officer of the city when so requested.

Sec. 30-217. Violations.

(a) Any person who registers with the business tax division for an exemption for a location pursuant to this division and who intentionally provides any false information on the registration documents shall be liable for a penalty of 10% of the taxes due under the occupation tax ordinance or one hundred dollars whichever is greater. This penalty shall apply independently of any penalties or interest which may be imposed elsewhere in this article.

- Any person, not entitled to an exemption for a location, and who intentionally uses or attempts to use the provisions of this division for the purpose of evading business taxes which would otherwise be due and payable for that location or any other location operated by that person shall be liable for a penalty of 10% of the taxes due under the occupation tax ordinance or one hundred dollars whichever is greater. This penalty shall apply independently of any penalties or interest which may be imposed elsewhere in this article.
- (c) For the purpose of administering this division and for the purpose of enforcing the provisions of this section any administrative or enforcement powers or any appeal provisions provided elsewhere in this article shall apply to this division.

Sec. 30-218. Severability.

If any section, phrase, sentence or portion of this division is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof and shall not affect the validity of the taxes, penalty or interest imposed elsewhere in this article.

SECTION 2: That this Ordinance shall become effective 30 days after it is signed by the Mayor or January 1, 2001 whichever date is later.

A true copy,

ADOPTED by the Council APPROVED by the Mayor

OCT 02, 2000 OCT 10, 2000

Atlanta City Council

Regular Session

00-0-1567 Provide for Reduction in Rate of Taxation Re Smoking in Dining Areas ADOPT

YEAS: 11
NAYS: 1
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 2

Y	McCarty	В	Dorsey	NV	Moore	Y	Thomas
Y	Starnes	Y	Woolard	В	Martin	Y	Emmons
_	Bond	N	Morris	Y	Maddox	Y	Alexander
Y	Winslow	Y	Muller	Y	Boazman	MM	Pitts

Atlanta City Council

Regular Session

00-O-1567 Provide for Reduction in Rate of Taxation Re Smoking in Dining Areas AMEND

YEAS: 5
NAYS: 7
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 2

FALLED

N	McCarty	В	Dorsey	NV	Moore .	N	Thomas
N	Starnes	Y	Woolard	В	Martin	Y	Emmons
N	Bond	Y	Morris	N	Maddox	Y	Alexander
N	Winslow	Y	Muller	N	Boazman	NV	Pitts